



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-204

May 30, 1997

NEW ENGLAND TELEPHONE & TELEGRAPH
COMPANY D/B/A NYNEX
Implementation Plan for the
Introduction of IntraLATA
Presubscription (ILP)

ORDER APPROVING
STIPULATION

WELCH, Chairman; NUGENT and HUNT, Commissioners

In this Order we approve a Stipulation (attached to this Order as Attachment A) filed on May 8, 1997, by NYNEX and MCI to implement "intraLATA presubscription" (ILP) in NYNEX's service territory beginning September 15, 1997. As a result of this Order Approving Stipulation, customers in NYNEX's service territory will be able to subscribe to carriers other than NYNEX for their in-state toll calls and to make those calls without first having to dial carrier access codes. Thus, this Order will create "toll dialing parity" with NYNEX and eliminate a significant barrier to competition in Maine's in-state long distance market.

This Stipulation and Order apply only to NYNEX, not to any other local exchange carrier in Maine. We will take up ILP for Maine's independent telephone companies and facilities-based competitive local exchange carriers in separate proceedings.

Parties in this case are NYNEX, MCI, AT&T, the Telephone Association of Maine (TAM), Standish Telephone Company, Mid-Maine Telecom, Lincoln Telephone Company, Pine Tree Telephone and Telegraph Company, MaineCom, and the New England Cable Television Association (NECTA).

NYNEX and MCI are parties to the Stipulation. AT&T filed objections to the Stipulation and is the only party who opposed it. TAM, Standish Telephone, Mid-Maine Telecom, Lincoln Telephone and NECTA filed comments and stated they would object to the Stipulation only if this order fails to make clear that the Stipulation applies only to NYNEX. Pine Tree Telephone, MaineCom, and the Public Advocate filed no comments and took no position on the Stipulation.

The most difficult issue in this proceeding has been "Municipal Calling Service" (MCS). MCS allows customers to call any telephone number within their municipality, toll free, even if the party called is served by a different exchange. If the

exchange called is within the customers' local calling area, it is a "local MCS" call; if not, it is a "toll MCS" call. Customers eligible only for local MCS will continue to receive that service from NYNEX. The difficulty is with customers who are eligible for toll MCS. Toll MCS calls are carried over the network as toll calls and, but for MCS, would be billed as toll calls. Customers who are eligible for toll MCS and who choose a toll carrier other than NYNEX, however, stand to lose their ability to make toll MCS calls.

According to AT&T and MCI, to provide toll MCS would require complex and costly revisions to their billing systems, a point NYNEX does not dispute. Thus, AT&T and MCI view their inability to provide toll MCS as a marketing impediment. On the other hand, about 20% of NYNEX's customers are eligible for toll MCS. Therefore, for about 80% of NYNEX's customers, toll MCS is not a marketing impediment.¹

AT&T suggested resale of toll service as a temporary fix to the toll MCS problem. NYNEX argued that its service to customers eligible for toll MCS is a "bundled" service, made up of both local (basic exchange) service and toll service, and that such a bundled service is not subject to the resale provisions of the Telecommunications Act of 1996.

AT&T also suggested an industry group be formed to develop a long term solution to the toll MCS problem. We agree, and we encourage the parties to pursue such a solution. Meanwhile, our approval of this Stipulation, as described below, does not preclude any party from raising the toll MCS resale issue in the future.

AT&T objected to the wording of customer education materials included in the Stipulation, suggesting, among other things, that references to NYNEX by name be replaced with a competitively-neutral term such as "your local telephone company." We acknowledge the wording may not be ideal, but because this ILP implementation applies only to NYNEX and to NYNEX's subscribers, we believe the changes proposed by AT&T would tend to create more confusion in what has the potential of being a difficult transition period for some customers. NYNEX has accommodated other wording suggestions made by AT&T, and the

¹ We note that customers eligible for toll MCS who choose another toll carrier will still be able to receive toll MCS by dialing NYNEX's access code, 10698. Given that ILP is a procedure designed to eliminate access code dialing for toll calls, we can appreciate the customer confusion that could occur at being told by that carrier that an access code is now necessary for what is now treated as a local call.

signatory parties agreed to them. (The customer education material is attached to this Order as Attachment B.)

AT&T also objected to the "PIC-freeze" being available to customers during the first 90 days after ILP implementation.² We accept the Stipulation language as offered, because in the Stipulation's service negotiation procedure, the subject of PIC-freeze must be initiated by customers, not the carrier. Therefore, the PIC-freeze should not become a marketing ploy for any carrier to use to prevent customers from changing to another carrier.

AT&T further objected to the Stipulation's allowing NYNEX to abstain from mediating PIC disputes when NYNEX is not a party to a dispute. We do not agree with AT&T. There is no reason in such an instance that NYNEX should be required to insert itself into a dispute between a customer and other carriers. AT&T also objects to NYNEX, when it is not a party to a dispute, refusing to provide information it may have that would assist in resolving the dispute. We are not aware of such a refusal by NYNEX, and we expect NYNEX - and all carriers - will respond to requests for such information.

AT&T objected to the Stipulation's proposed \$5 charge for PIC changes, contending NYNEX should demonstrate it is a cost-based rate. AT&T also objects to the Stipulation's allowing NYNEX to refer customers to the carriers of their choice to complete their PIC changes. AT&T wants NYNEX to make the changes without such referrals, to avoid inconveniencing customers.

We are unpersuaded by the reasons AT&T offers for these objections. We recognize the \$5 intraLATA PIC change rate has not been cost-justified, but we're aware that many customers are already familiar with the \$5 interLATA PIC change rate, and a different rate for intraLATA PIC changes could be a source of confusion. As for AT&T's wanting NYNEX to process PIC changes for customers who have selected other intraLATA toll carriers, NYNEX has stated it will process PIC changes if requested to do so by customers.

Finally, AT&T objects to the Stipulation providing that NYNEX will be the "default" toll carrier for customers who do not select an alternative carrier. Instead, AT&T proposes that customers who do not choose a carrier within 30 days of ILP

² "PIC" stands for Primary Interexchange Carrier. The "PIC-freeze" enables customers to "freeze" their choices of toll carrier and thereby prevent being "slammed," i.e., changed to another toll carrier, by that carrier, without their knowledge or authorization.

implementation (i.e., by October 15, 1997) be randomly assigned an intraLATA toll carrier.

We realize that only NYNEX benefits from customers who do not select another carrier. We also realize, however, that AT&T's proposal would likely result in customer confusion or resentment from customers reacting to a choice being made for them.

Implementing ILP is a complex process. We are impressed with the efforts of the parties to resolve difficult technical issues and to develop competitively-neutral service negotiation procedures to be used in marketing competitive in-state toll services and optional calling plans to NYNEX's toll customers. We also realize that at times these procedures may not be followed exactly and that there may be abuses. Therefore, we encourage the parties to monitor themselves and each other and to bring any alleged abuses to our attention. We will undertake to monitor these procedures, through spot checks, at least during the early stages of the transition to ILP.

We are satisfied that the Stipulation, if implemented as written and planned, will provide NYNEX's customers with competitive choices for their in-state toll calling needs and will do so as quickly as possible, which is our goal.

Accordingly, we

O R D E R

That the ILP Stipulation filed by NYNEX and MCI on May 8, 1997, attached hereto, be approved and implemented as proposed by the parties.

Dated at Augusta, Maine this 30th day of May, 1997.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Acting Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which a reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:

The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.